

ESTTA Tracking number: **ESTTA462252**Filing date: **03/16/2012**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	BBK TOBACCO & FOODS, LLP		
Entity	LIMITED LIABILITY PARTNERSHIP	Citizenship	ARIZONA
Address	3315 W. BUCKEYE ROAD SUITE B PHOENIX, AZ 85377 UNITED STATES		

Attorney information	ROSALIND M. YOUNG 3315 W. BUCKEYE ROAD SUITE B PHOENIX, AZ 85009 UNITED STATES ROZ@HBIIN.COM Phone:6029556688
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Applicant Information

Application No	85418016	Publication date	02/21/2012
Opposition Filing Date	03/16/2012	Opposition Period Ends	03/22/2012
Applicant	Humicon LLC 400 Oser Avenue, Suite 500 Hauppauge, NY 11788 UNITED STATES		

Goods/Services Affected by Opposition

Class 034. All goods and services in the class are opposed, namely: Cigars

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2545087	Application Date	07/21/2000
Registration Date	03/05/2002	Foreign Priority Date	NONE
Word Mark	ZEN		

Design Mark	ZEN
Description of Mark	NONE
Goods/Services	Class 007. First use: First Use: 1997/08/28 First Use In Commerce: 1997/08/28 Hand operated machines for rolling cigarettes Class 008. First use: First Use: 1997/08/28 First Use In Commerce: 1997/08/28 Power operated machines for rolling cigarettes Class 034. First use: First Use: 1997/08/28 First Use In Commerce: 1997/08/28 Cigarette rolling papers, Cigarettes

Attachments	78017923#TMSN.gif (1 page)(bytes) Opposition Zen Master.pdf (5 pages)(139995 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Rosalnd M. Young/
Name	ROSALIND M. YOUNG
Date	03/16/2012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

BBK Tobacco & Foods, Inc. d/b/a
HBI International

Opposer,

v.

Humicon, LLC

Applicant.

Trademark Application

Mark: ZEN MASTER

Serial No. 85/418016

Filed: March 16, 2012

Published: 2/21/2012

Opposition No.

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

BBK Tobacco & Foods, LLP. d/b/a HBI International, a corporation located and doing business at 3315 W. Buckeye Rd., Ste. B, Phoenix, AZ 85009 (“Opposer”) believes that it will be damaged by the registration of the mark ZEN MASTER shown in Application Serial No. 85/418016 (“Applicant’s Mark”) by Humicon, a limited liability company located in Hauppauge, NY 11788 (“Applicant”) and hereby opposes the registration of said application.

As grounds for opposition, Opposer alleges:

1. Applicant filed a trademark application assigned Application Serial No. 85/418016 in the United States Patent and Trademark Office (“USPTO”) on September 8, 2011 (“the Application”) to register Applicant’s Mark in International Class 034 for use in connection with “CIGARS” (the “Applicant’s Goods”).

2. The Opposer is a well-known wholesaler/distributor of cigarette tobacco, cigars, herbal smoking blends, cigarette rolling papers and other smoking related products. Opposer invents, sells and distributes many different types of tobacco and herbal-related smoking products including but not limited to, cigarette tobacco, cigarette rolling papers, cigar wraps, cigars and smoker's articles ("the Opposer's Goods"). Opposer's Goods are offered for sale in a wide range of shapes, sizes and designs.

3. The Applicant's ZEN MASTER mark is identified with USPTO as for goods in the categories of "CIGARS".

4. The Opposer provides information about its tobacco and herbal smoking related products and other tobacco related goods and services on the Internet on various websites.

OPPOSER'S ZEN MARK

5. The Opposer is the owner of Trademark Registration Number 2, 545, 087 ZEN ("the Opposer's Mark"). Opposer's Mark is currently valid and subsisting.

6. The Opposer has used Opposer's Mark ZEN in association with the Opposer's Goods in interstate commerce in connection with Opposer's Goods since at least as early as August of 1997 and the Opposer's Mark is currently in use in commerce with Opposer's Goods.

7. Priority is not an issue here since both all of Opposer's First Use Dates and the Opposer's First Use in Commerce Dates are prior to the Applicant's by virtue of the simple fact that as of this writing Applicant is not using the referenced mark in commerce. Applicant has filed a 1b "intent to use" Application.

8. Opposer has at great expense, continuously engaged in the sale and promotion of Opposer's Goods under and in connection with the Opposer's Mark.

9. Opposer has at great expense, extensively and continuously offered to the public high quality goods under the Opposer's Mark. By reason of such efforts and by virtue of the excellence of the goods and services sold under the Opposer's Mark, the public and trade have come to recognize the Opposer's Mark as identifying Opposer and the goods and services offered under the Opposer's Mark, and Opposer enjoys exceptionally valuable goodwill in connection with the goods and services offered under and in connection with the Opposer's Mark.

10. The mark proposed for registration by Applicant, is confusingly similar in sight, sound, meaning, and commercial impression to Opposer's Mark which has been used in interstate commerce prior to any application for trademark registration by Applicant.

11. Opposer believes that it will be damaged by the registration of Applicant's Mark since a substantial portion of the purchasing public and/or trade is likely to be confused, or mistakenly believe, that Applicant's Goods offered under Applicant's Mark originate from Opposer, or from the same source as the goods and services sold under Opposer's Mark, or that such goods are sponsored by, endorsed by, or affiliated with the source of the goods and services sold under Opposer's Mark. Such likelihood of confusion would result both in lost sales to Opposer and in damage to the goodwill among purchasers and the trade that the Opposer's Mark symbolizes. Persons familiar with the Opposer's Mark would be likely to buy Applicant's Goods as and for goods made and sold by Opposer. Moreover, any defect, objection or fault found with Applicant's Goods marketed under Applicant's Mark would reflect upon and seriously injure the reputation which has been established for the goods and services sold under the Opposer's Mark.

12. If Applicant is permitted to use and register the mark herein opposed for its goods as specified in the Application herein opposed, such registration and use by Applicant is likely to cause confusion, deception and mistake, and will seriously damage Opposer. Registration would allow Applicant to profit from the efforts put forth solely by Opposer.

WHEREFORE, Opposer prays that Applicant's application, Serial No. 85418016, be rejected, and that the mark therein sought for the goods specified therein be denied and refused.

The Opposer hereby consents and appoints Rosalind M. Young, member of the bar of the State of Arizona, whose address is HBI International Legal Department, 3315 W. Buckeye Rd, Suite B, Phoenix, AZ 85009, as its duly authorized agent and attorney in the matter of the opposition above-identified to prosecute said opposition, to transact all business in the Patent and Trademark Office and in the United States courts in connection with this opposition, to sign its name to all papers which may hereafter be filed in connection herewith, and to receive all communications related to the same.

Dated: March 16, 2012

Respectfully Submitted,
BBK Tobacco & Foods, LLP

/s/ Rosalind M. Young
By:_____

Rosalind M. Young, Esq.
Corporate Counsel
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Certificate of Service

The undersigned hereby certifies that a copy of the foregoing Notice of Opposition has been served upon the Applicant's Correspondence address on March 16, 2012 by depositing same in the United States Mail, first-class mail, postage prepaid, in an envelope addressed as follows:

**DAVID AKER
ATTORNEY AT LAW
23 SOUTHERN ROAD
HARTSDALE, NY 10530-2128**

/s/ Rosalind M. Young

Rosalind M. Young, Esq.